

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**STEPHEN BOLLSCHWEILER,  
RAYMOND C. ARMENDARIZ,  
DANIEL DUCHENE, and JOSE J.  
CALZADILLA,**

**Plaintiffs**

**v.**

**EL PASO ELECTRIC COMPANY,**

**Defendant**

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**CIV. ACTION NO. 14-CV-275**

**DEFENDANT'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant El Paso Electric Company ("Defendant") gives notice that it is removing this civil action from the County Court at Law for El Paso County to the United States District Court for the Western District of Texas, El Paso Division. Removal is based on the existence of a federal question pursuant to 28 U.S.C. § 1331, and in support, Defendant respectfully shows:

**I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

1. Plaintiffs Stephen Bollschweiler, Raymond Armendariz, Daniel Duchene, and Jose Calzadilla ("Plaintiffs") filed their Original Petition (the "Petition") in the County Court at Law No. 3, El Paso County, Texas, on June 23, 2014, styled *Stephen Bollschweiler, Raymond C. Armendariz, Daniel Duchene, and Jose J. Calzadilla v. El Paso Electric Company, No. 2014DCV1959* (the "State Court Action"). See Appendix, pp. 5-9 (Petition). Within the Petition, Plaintiffs allege that Defendant violated the Fair Labor Standards Act as amended, 29 U.S.C. Section 216(b) in connection with Plaintiffs' employment with Defendant in El Paso County, Texas. *Id.* at p. 8, ¶ 12.

2. Defendant was served with a copy of Plaintiffs' Petition on June 24, 2014, and

timely filed its Original Answer on July 16, 2014. *Id.* at pp. 12-14.

3. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because it is filed within thirty days after Defendant was first served with a copy of Plaintiffs' Petition.

4. Removal is proper to this Federal District Court and division because it embraces El Paso County, Texas.

5. In accordance with 28 U.S.C. § 1446(a), the Appendix attached hereto and incorporated herein contains true and correct copies of all process, pleadings, and orders served upon Defendant in the State Court Action; an index of all documents that identifies each document and the date each document was filed; a certified copy of the State Court Action's docket sheet; a certified copy of each document filed in the State Court Action; a Civil Cover Sheet; and a Supplemental Cover Sheet. Also filed contemporaneously is a Corporate Disclosure Statement that complies with FED. R. CIV. P. 7.1.

6. Defendant will provide prompt written notice of the filing of this Notice of Removal to all adverse parties and will file a copy of it with the Clerk of the County Court of Law No. 3 of El Paso County.

## **II. BASIS FOR FEDERAL JURISDICTION**

7. 28 U.S.C. § 1441 allows for the removal of any civil action in a state court which the district courts of the United States have original jurisdiction. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, which provides that district courts have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. Removal of this case is based upon claims arising under federal law and involve federal questions because Plaintiffs bring claims under Fair Labor Standards Act as Amended, 29 U.S.C. Section 216(b). *See* Appendix, p. 8, ¶ 12. Accordingly, because Plaintiffs pled causes of action under federal statute, this Court is vested with original subject matter

jurisdiction over this action pursuant to 28 U.S.C. § 1331.

### **III. PRAYER**

This Court is vested with original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because Plaintiffs pled a cause of action under a federal statute. Thus, removal of this action is proper. Accordingly, Defendant respectfully requests that this Court assume jurisdiction over this action and proceed with handling this action as if it was filed initially in the United States District Court for the Western District of Texas, El Paso Division.

Dated July 21, 2014

Respectfully submitted,

s/ Jeremy W. Hawpe

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I certify that on July 21, 2014, a true and correct copy of the foregoing document was sent via email and certified mail, return receipt requested, to:

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s/ Jeremy W. Hawpe  
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